

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

Pulse Nightclub, LLC	
t/a Pulse Nightclub	Protest
2142 Queens Chapel Road, NE	Hearing
Retailer CN - ANC-5C	(Status)
License No. 94074	
Case #14-PRO-00021	

(New Application)

May 1, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member

P-R-O-C-E-E-D-I-N-G-S

(10:04 a.m.)

CHAIRPERSON MILLER: Good morning, everyone. Sorry we are starting a little bit late this morning. I don't know if other people had trouble with traffic, but some of us did.

So we are going to start now and we are going to take a couple people out of order who have other engagements that they have to meet afterwards.

So today is our regularly scheduled meeting of District of Columbia Alcoholic Beverage Control Board. It is May 1, 2014.

My name is Ruthanne Miller. I'm the Chairperson. To my far right is Mr. Nick Alberti. To my immediate right is Mr. Hector Rodriguez. And to my immediate left is Mr. Mike Silverstein. We have four Members in attendance this morning and three constitute a quorum.

1 Copies of today's hearing calendar
2 and agenda are available at the receptionist
3 desk. Please be aware that these proceedings
4 are being recorded by a court reporter.
5 Accordingly, we must ask you to refrain from
6 any disruptive noises or actions in the
7 hearing room.

8 If you have any electronic
9 devices, pagers, cell phones or such, please,
10 make certain they are turned off to avoid any
11 interruption of the proceedings.

12 When I call your case, please,
13 come forward and take a seat at the table.
14 You will note that there is a piece of paper
15 on each table for you to sign-in. This is to
16 ensure the correct spelling of your name for
17 the record.

18 The Open Meetings Act requires
19 that the public hearing on each case be open
20 to the public. The Board may, consistent with
21 Section 405(b) of the Open Meetings Act, enter
22 a closed meeting during or after the public

1 hearing on a case to consult with an attorney
2 to obtain legal advice, discuss settlement
3 agreements or deliberate upon a decision in an
4 adjudication proceeding.

5 Okay. I am going to call first
6 Case No. 14-PRO-00021, Pulse Nightclub located
7 at 2142 Queen Chapel Road, N.E., License No.
8 94074, in ANC-5C. This is in regards to a
9 Protest Hearing on a new application.

10 Okay. Good morning.

11 MR. MPRAS: Good morning. Emanuel
12 Mpras representing Pulse Nightclub.

13 MR. TRUONG: Also Truong on behalf
14 of Pulse.

15 MS. BUTLER: Karla Butler.

16 CHAIRPERSON MILLER: Good morning.

17 MS. BUTLER: Good morning.

18 MS. PENN: Good morning, Frances
19 Penn.

20 CHAIRPERSON MILLER: Okay.

21 MR. DAVIS: Good morning, Carlos
22 Davis.

1 CHAIRPERSON MILLER: Okay. And
2 you are with which protest group?

3 MS. BUTLER: This is the group of
4 five or more, the Odunsi Group.

5 CHAIRPERSON MILLER: Right. Okay.
6 That's what I -- I just wanted to make sure
7 you were all with that one. Okay. Good.

8 All right. Are there any matters
9 you want to bring to our attention?

10 MR. MPRAS: Yes, ma'am.

11 CHAIRPERSON MILLER: Okay.

12 MR. MPRAS: In Board Order 2014-
13 131, page 3, paragraph 3, Evelyn Frasier is
14 listed as a signatory that appeared.

15 CHAIRPERSON MILLER: Wait.

16 MR. MPRAS: That is --

17 CHAIRPERSON MILLER: Could you say
18 the name again, I --

19 MR. MPRAS: Evelyn Frasier.

20 CHAIRPERSON MILLER: Evelyn
21 Frasier?

22 MR. MPRAS: Yes, ma'am.

1 CHAIRPERSON MILLER: Okay.

2 MR. MPRAS: In reviewing a copy of
3 the Protest Petition, Ms. Frasier did not sign
4 that. Her name is not on there. And it was
5 put there on the order in error.

6 CHAIRPERSON MILLER: This is --
7 are you called the group of 50 or what are you
8 called?

9 MS. BUTLER: It's -- they -- we
10 called it the Odunsi Group.

11 CHAIRPERSON MILLER: O what?

12 MS. BUTLER: Odunsi.

13 CHAIRPERSON MILLER: Odundi?

14 MS. BUTLER: Odunsi, O-D-U-N-S-I,
15 Odunsi.

16 CHAIRPERSON MILLER: Okay. Right.
17 Do you want to speak to that issue?

18 MS. BUTLER: I don't have --

19 CHAIRPERSON MILLER: Were you
20 aware of this issue?

21 MS. BUTLER: I don't have the
22 petition on-hand with me, so if we could table

1 that, so I can review?

2 CHAIRPERSON MILLER: So you
3 weren't aware of this issue before this
4 morning?

5 MS. BUTLER: Correct.

6 CHAIRPERSON MILLER: Okay.

7 MEMBER ALBERTI: Mr. Mpras, can
8 someone -- if we can't do this quickly, we
9 will pass, we will consider it later, but can
10 someone tell me who they believe showed up at
11 the -- for the protestants at the Roll Call?

12 MS. BUTLER: At the Roll Call
13 Hearing, myself. I was part of the ANC. I am
14 ANC --

15 MEMBER ALBERTI: Okay. Just the
16 names, just the names.

17 MS. BUTLER: Yolando Odunsi,
18 Carlos Davis, Frances Penn, Evelyn Frasier,
19 Camilla Faulkner and Malv Gwen. They
20 appeared at the Roll Call Hearing.

21 MEMBER ALBERTI: That's how many?

22 MS. BUTLER: That's seven.

1 MEMBER ALBERTI: Six.

2 MR. MPRAS: Six. I'm sorry, you
3 did not appear. Six.

4 MS. BUTLER: I'm sorry, six.

5 MEMBER ALBERTI: Six, okay. So
6 even with Ms. Frasier discounted, we still
7 have five protestants?

8 MS. BUTLER: Correct.

9 MEMBER ALBERTI: And that -- I
10 mean, we will check our records, but that
11 still constitutes a group of five or more. Do
12 you agree, Mr. Mpras?

13 MR. MPRAS: Yes, sir. I'm just --
14 yes, sir.

15 MEMBER ALBERTI: Okay. So the
16 protest still has standing.

17 MS. BUTLER: Correct.

18 MR. MPRAS: Yes, sir.

19 MEMBER ALBERTI: Okay. Thank you.
20 That's all I wanted to clear up. We can look
21 at Ms. Frasier after and take that under
22 consideration.

1 MR. MPRAS: And --

2 MS. BUTLER: I want to -- I also
3 want to state that there was a Board Order
4 that dismissed that original petition and gave
5 standing to the five that appeared at the Roll
6 Call Hearing.

7 MEMBER ALBERTI: Right, right. We
8 understand.

9 CHAIRPERSON MILLER: That's right.

10 MEMBER ALBERTI: We understand.

11 CHAIRPERSON MILLER: So but what
12 is your issue then, Mr. Mpras?

13 MR. MPRAS: Nothing. I'm just
14 bringing it up as a preliminary matter that it
15 needs to be amended because she was not there.

16 MS. BUTLER: She appeared --

17 MR. MPRAS: I'm sorry, she did not
18 sign the Protest Petition.

19 MS. BUTLER: -- at the Roll Call
20 Hearing.

21 CHAIRPERSON MILLER: She didn't
22 sign the petition, according to you, and you

1 haven't checked the records. Okay. So but
2 what needs to be amended?

3 MR. MPRAS: Page 3, paragraph 3 of
4 the Board Order. She was stated as somebody
5 who personally appeared and had signed the
6 petition.

7 CHAIRPERSON MILLER: Okay.

8 MR. MPRAS: She had not signed the
9 petition.

10 CHAIRPERSON MILLER: Okay.

11 MR. MPRAS: Even though she made a
12 personal appearance.

13 CHAIRPERSON MILLER: Okay.

14 MR. MPRAS: And --

15 MS. BUTLER: If we want to be --
16 if we want for clarification, it states that,
17 however, the following signatures personally
18 appeared. So if she appeared before the
19 Board, I guess, his objective is she didn't
20 sign, but she did appear at the hearing.

21 CHAIRPERSON MILLER: Okay. So,
22 you know, we don't have any of that in front

1 of us, so we will take a look at it, but I
2 just want to ask you, if you want to get
3 something in for us to look at, would you be
4 able to get that in pretty soon? That's a
5 pretty quick thing.

6 MS. BUTLER: Yes.

7 CHAIRPERSON MILLER: In the next
8 few days or so?

9 MS. BUTLER: Yes, I could.

10 CHAIRPERSON MILLER: Okay.

11 MR. MPRAS: And, ma'am, the --
12 pursuant to the Board Order, the designated
13 representative is Ms. Odunsi. Ms. Butler has
14 no standing to be here. She is not a member
15 of the group of five. And the ANC protest has
16 been dismissed. So I would like to know where
17 their representative is.

18 MS. BUTLER: And I would also like
19 to state that Ms. Odunsi sent an email to you,
20 Ms. Jenkins as well as Ms. Fletcher, letting
21 them know that I will be representative for
22 the Odunsi Group today.

1 MR. MPRAS: That would have to be
2 something signed by the new group of five or
3 six, not by Ms. Odunsi.

4 MS. BUTLER: I also want to state
5 for the record that the Motion to Dismiss by
6 Mr. Mpras was filed incorrectly. He has an
7 incorrect license number as well as the
8 license type --

9 CHAIRPERSON MILLER: Okay.

10 MS. BUTLER: -- that was submitted
11 in his motion.

12 CHAIRPERSON MILLER: Okay. I
13 think you guys are going to have to put this
14 in writing, because I don't think we want to
15 go into those weeds right this second.

16 But I just want to be sure, is
17 there a question about Ms. Butler's standing?

18 MR. MPRAS: Yes, ma'am. She has
19 no standing to represent the group right now.

20 CHAIRPERSON MILLER: To represent
21 the group right now as opposed to being part
22 of the group. Is that what you are saying?

1 MR. MPRAS: Not either part of the
2 group or has standing to represent them.

3 CHAIRPERSON MILLER: Are you part
4 of the group?

5 MS. BUTLER: Ms. -- I am part of
6 the group. Ms. Odunsi submitted an email to
7 the office to give me -- to designate me as
8 the representative for today's meeting.

9 CHAIRPERSON MILLER: Okay.

10 MEMBER ALBERTI: I have a
11 question.

12 CHAIRPERSON MILLER: Yes, go
13 ahead.

14 MEMBER ALBERTI: Okay. Well,
15 never mind.

16 CHAIRPERSON MILLER: Oh, okay.
17 Okay. Okay. In any event, you all are part
18 of the group, correct?

19 MS. BUTLER: Yes.

20 CHAIRPERSON MILLER: They are part
21 of the group. Okay. And they are at the
22 status. So okay. If there is any action you

1 want the Board to take, I would suggest you
2 submit it to us in writing, so we can focus on
3 it and then you all can respond.

4 MR. MPRAS: Yes, ma'am.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER ALBERTI: I just want to
7 know and I was looking at this list, just for
8 everyone's information so we are clear on
9 this, Ms. Butler, that's you, you were a
10 signature on the original petition?

11 MS. BUTLER: Correct.

12 MEMBER ALBERTI: Okay. So we have
13 that. All right. Thank you.

14 CHAIRPERSON MILLER: Okay.

15 Anything else? Yes?

16 MR. MPRAS: No.

17 CHAIRPERSON MILLER: Or no, okay.
18 Then your Protest Hearing is scheduled for May
19 14, 2014 at 1:30 p.m. And I just want to give
20 you a few instructions with respect to that.

21 The purpose of the Protest Hearing
22 is to determine the appropriateness of the

1 establishment in the section of the District
2 where the establishment is located. These
3 hearings are to be focused and address only
4 those issues that are being protested.

5 You should have received a mailing
6 from Adjudication Assistant Tesha Anderson
7 explaining the protest process, a copy of the
8 Protest Information Form also known as a PIF
9 and a copy of the Exhibit Form. If you don't
10 have these documents, please, see her at the
11 conclusion of this hearing.

12 This is very important that you
13 pay attention to completing and submitting
14 this PIF and the Exhibit Form seven days
15 before the hearing. They need to be submitted
16 with the accompanying exhibits to Ms. Anderson
17 and to all opposing parties in the matter. If
18 we don't receive a copy of your PIF, your
19 application or your protest, whichever side
20 you may be representing, it may be -- you may
21 be subject to dismissal.

22 Likewise, if we do not receive a

1 copy of the Exhibit Form and the exhibits
2 themselves, your exhibits may be excluded from
3 the record upon a finding that the opposing
4 party has been prejudiced or no good reason
5 for the failure to submit has been shown.

6 Same with witnesses, other than a
7 party, may also be subject to exclusion if not
8 identified on the PIF. And identified means
9 as specifically as possible. Don't just say
10 like neighbors will testify or whatever. You
11 need to identify the names of who will be
12 testifying.

13 And the whole purpose of this is
14 so that both parties and the Board don't have
15 any surprises at the hearings that is going to
16 throw it off, that we are all focused on what
17 the issues are and can pay attention to the
18 substance.

19 Okay. If you have any other
20 questions later on, you can contact Ms.
21 Anderson at 442-6492 or our General Counsel,
22 Martha Jenkins. And then we will see if you

1 have any issues you're going to put in writing
2 and the Board will take a look at it.

3 MR. MPRAS: Thank you.

4 CHAIRPERSON MILLER: Thank you.

5 (Whereupon, the Protest (Status)
6 Hearing in the above-entitled matter was
7 concluded at 10:15 a.m.)
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<p>A</p> <p>a.m 2:2 17:7</p> <p>able 11:4</p> <p>above-entitled 17:6</p> <p>accompanying 15:16</p> <p>Act 3:18,21</p> <p>action 13:22</p> <p>actions 3:6</p> <p>address 15:3</p> <p>adjudication 4:4 15:6</p> <p>advice 4:2</p> <p>agenda 3:2</p> <p>agree 8:12</p> <p>agreements 4:3</p> <p>ahead 13:13</p> <p>Alberti 1:16 2:18 7:7,15,21 8:1,5,9 8:15,19 9:7,10 13:10,14 14:6,12</p> <p>Alcoholic 1:2,11,12 2:14</p> <p>amended 9:15 10:2</p> <p>ANC 7:13,14 11:15</p> <p>ANC-5C 1:7 4:8</p> <p>Anderson 15:6,16 16:21</p> <p>appear 8:3 10:20</p> <p>appearance 10:12</p> <p>appeared 5:14 7:20 9:5,16 10:5,18,18</p> <p>application 1:9 4:9 15:19</p> <p>appropriateness 14:22</p> <p>Assistant 15:6</p> <p>attendance 2:21</p> <p>attention 5:9 15:13 16:17</p> <p>attorney 4:1</p> <p>available 3:2</p> <p>avoid 3:10</p> <p>aware 3:3 6:20 7:3</p> <p>B</p> <p>behalf 4:13</p>	<p>believe 7:10</p> <p>Beverage 1:2,11,12 2:14</p> <p>bit 2:4</p> <p>Board 1:2,12 2:14 3:20 5:12 9:3 10:4,19 11:12 14:1 16:14 17:2</p> <p>bring 5:9</p> <p>bringing 9:14</p> <p>Building 1:12</p> <p>Butler 4:15,15,17 5:3 6:9,12,14,18 6:21 7:5,12,17,22 8:4,8,17 9:2,16,19 10:15 11:6,9,13 11:18 12:4,10 13:5,19 14:9,11</p> <p>Butler's 12:17</p> <p>C</p> <p>calendar 3:1</p> <p>call 3:12 4:5 7:11 7:12,20 9:6,19</p> <p>called 6:7,8,10</p> <p>Camilla 7:19</p> <p>Carlos 4:21 7:18</p> <p>case 1:8 3:12,19 4:1 4:6</p> <p>cell 3:9</p> <p>certain 3:10</p> <p>Chairperson 1:13 1:16 2:3,17 4:16 4:20 5:1,5,11,15 5:17,20 6:1,6,11 6:13,16,19 7:2,6 9:9,11,21 10:7,10 10:13,21 11:7,10 12:9,12,20 13:3,9 13:12,16,20 14:5 14:14,17 17:4</p> <p>Chapel 1:6 4:7</p> <p>check 8:10</p> <p>checked 10:1</p> <p>clarification 10:16</p> <p>clear 8:20 14:8</p> <p>closed 3:22</p>	<p>CN 1:7</p> <p>Columbia 1:1 2:13</p> <p>come 3:13</p> <p>completing 15:13</p> <p>concluded 17:7</p> <p>conclusion 15:11</p> <p>consider 7:9</p> <p>consideration 8:22</p> <p>consistent 3:20</p> <p>constitute 2:21</p> <p>constitutes 8:11</p> <p>consult 4:1</p> <p>contact 16:20</p> <p>Control 1:2,11,12 2:14</p> <p>Copies 3:1</p> <p>copy 6:2 15:7,9,18 16:1</p> <p>correct 3:16 7:5 8:8 8:17 13:18 14:11</p> <p>Counsel 16:21</p> <p>couple 2:9</p> <p>court 3:4</p> <p>D</p> <p>D.C 1:13</p> <p>Davis 4:21,22 7:18</p> <p>days 11:8 15:14</p> <p>decision 4:3</p> <p>deliberate 4:3</p> <p>designate 13:7</p> <p>designated 11:12</p> <p>desk 3:3</p> <p>determine 14:22</p> <p>devices 3:9</p> <p>discounted 8:6</p> <p>discuss 4:2</p> <p>Dismiss 12:5</p> <p>dismissal 15:21</p> <p>dismissed 9:4 11:16</p> <p>disruptive 3:6</p> <p>District 1:1 2:13 15:1</p> <p>documents 15:10</p> <p>E</p> <p>either 13:1</p>	<p>electronic 3:8</p> <p>email 11:19 13:6</p> <p>Emanuel 4:11</p> <p>engagements 2:10</p> <p>ensure 3:16</p> <p>enter 3:21</p> <p>error 6:5</p> <p>establishment 15:1 15:2</p> <p>Evelyn 5:13,19,20 7:18</p> <p>event 13:17</p> <p>everyone's 14:8</p> <p>excluded 16:2</p> <p>exclusion 16:7</p> <p>Exhibit 15:9,14 16:1</p> <p>exhibits 15:16 16:1 16:2</p> <p>explaining 15:7</p> <p>F</p> <p>failure 16:5</p> <p>far 2:17</p> <p>Faulkner 7:19</p> <p>filed 12:6</p> <p>finding 16:3</p> <p>first 4:5</p> <p>five 5:4 8:7,11 9:5 11:15 12:2</p> <p>Fletcher 11:20</p> <p>focus 14:2</p> <p>focused 15:3 16:16</p> <p>following 10:17</p> <p>Form 15:8,9,14 16:1</p> <p>forward 3:13</p> <p>four 2:20</p> <p>Frances 4:18 7:18</p> <p>Frasier 5:13,19,21 6:3 7:18 8:6,21</p> <p>front 10:22</p> <p>G</p> <p>General 16:21</p> <p>give 13:7 14:19</p> <p>go 12:15 13:12</p>	<p>going 2:8,9 4:5 12:13 16:15 17:1</p> <p>good 2:3 4:10,11,16 4:17,18,21 5:7 16:4</p> <p>group 5:2,3,4 6:7 6:10 8:11 11:15 11:22 12:2,19,21 12:22 13:2,4,6,18 13:21</p> <p>guess 10:19</p> <p>guys 12:13</p> <p>Gwen 7:19</p> <p>H</p> <p>hearing 1:6,12 3:1 3:7,19 4:1,9 7:13 7:20 9:6,20 10:20 14:18,21 15:11,15 17:6</p> <p>hearings 15:3 16:15</p> <p>Hector 1:17 2:18</p> <p>I</p> <p>identified 16:8,8</p> <p>identify 16:11</p> <p>immediate 2:18,19</p> <p>important 15:12</p> <p>incorrect 12:7</p> <p>incorrectly 12:6</p> <p>information 14:8 15:8</p> <p>instructions 14:20</p> <p>interruption 3:11</p> <p>issue 6:17,20 7:3 9:12</p> <p>issues 15:4 16:17 17:1</p> <p>J</p> <p>Jenkins 11:20 16:22</p> <p>K</p> <p>Karla 4:15</p> <p>know 2:5 10:22</p>
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11:16,21 14:7 known 15:8	7:2,6 9:9,11,21 10:7,10,13,21 11:7,10 12:9,12 12:20 13:3,9,12 13:16,20 14:5,14 14:17 17:4 mind 13:15 morning 2:3,5,21 4:10,11,16,17,18 4:21 7:4 motion 12:5,11 Mpras 4:11,12 5:10 5:12,16,19,22 6:2 7:7 8:2,12,13,18 9:1,12,13,17 10:3 10:8,11,14 11:11 12:1,6,18 13:1 14:4,16 17:3	11:13,19,22 12:3 13:6 office 13:7 Oh 13:16 okay 4:5,10,20 5:1 5:5,7,11 6:1,16 7:6,15 8:5,15,19 10:1,7,10,13,21 11:10 12:9,12 13:9,14,16,17,17 13:21,22 14:5,12 14:14,17 16:19 on-hand 6:22 open 3:18,19,21 opposed 12:21 opposing 15:17 16:3 order 2:10 5:12 6:5 9:3 10:4 11:12 original 9:4 14:10	15:10 possible 16:9 prejudiced 16:4 preliminary 9:14 PRESENT 1:14 presiding 1:13 pretty 11:4,5 proceeding 4:4 proceedings 3:3,11 process 15:7 protest 1:6 4:9 5:2 6:3 8:16 9:18 11:15 14:18,21 15:7,8,19 17:5 protestants 7:11 8:7 protested 15:4 public 3:19,20,22 Pulse 1:5,6 4:6,12 4:14 purpose 14:21 16:13 pursuant 11:12 put 6:5 12:13 17:1	regularly 2:12 reporter 3:4 represent 12:19,20 13:2 representative 11:13,17,21 13:8 representing 4:12 15:20 requires 3:18 respect 14:20 respond 14:3 Retailer 1:7 review 7:1 reviewing 6:2 right 2:17,18 5:5,8 6:16 9:7,7,9 12:15 12:19,21 14:13 Road 1:6 4:7 Rodriguez 1:17 2:19 Roll 7:11,12,20 9:5 9:19 room 1:12 3:7 Ruthanne 1:13,16 2:16
L				
late 2:5 left 2:19 legal 4:2 letting 11:20 license 1:7 4:7 12:7 12:8 Likewise 15:22 list 14:7 listed 5:14 little 2:4 LLC 1:5 located 4:6 15:2 look 8:20 11:1,3 17:2 looking 14:7	N	P	Q	S
M	N.E 4:7 N.W 1:13 name 2:16 3:16 5:18 6:4 names 7:16,16 16:11 NE 1:6 need 15:15 16:11 needs 9:15 10:2 neighbors 16:10 never 13:15 new 1:9 4:9 12:2 Nick 1:16 2:17 Nightclub 1:5,6 4:6 4:12 noises 3:6 note 3:14 number 12:7	P-R-O-C-E-E-D-... 2:1 p.m 14:19 page 5:13 10:3 paggers 3:9 paper 3:14 paragraph 5:13 10:3 part 7:13 12:21 13:1,3,5,17,20 parties 15:17 16:14 party 16:4,7 pass 7:9 pay 15:13 16:17 Penn 4:18,19 7:18 people 2:6,9 personal 10:12 personally 10:5,17 petition 6:3,22 9:4 9:18,22 10:6,9 14:10 phones 3:9 piece 3:14 PIF 15:8,14,18 16:8 please 3:3,9,12	Queen 4:7 Queens 1:6 question 12:17 13:11 questions 16:20 quick 11:5 quickly 7:8 quorum 2:22	say 12:22 scheduled 2:13 14:18 seat 3:13 second 12:15 section 3:21 15:1 see 15:10 16:22 sent 11:19 settlement 4:2 seven 7:22 15:14 showed 7:10 shown 16:5 side 15:19 sign 6:3 9:18,22 10:20 sign-in 3:15 signatory 5:14 signature 14:10 signatures 10:17 signed 10:5,8 12:2
ma'am 5:10,22 11:11 12:18 14:4 mailing 15:5 Malv 7:19 Martha 16:22 matter 1:4 9:14 15:17 17:6 matters 5:8 mean 8:10 means 16:8 meet 2:11 meeting 1:3 2:13 3:22 13:8 Meetings 3:18,21 member 1:16,17,17 7:7,15,21 8:1,5,9 8:15,19 9:7,10 11:14 13:10,14 14:6,12 Members 2:20 met 1:12 Mike 1:17 2:20 Miller 1:13,16 2:3 2:16 4:16,20 5:1,5 5:11,15,17,20 6:1 6:6,11,13,16,19	O			
	O 6:11 O-D-U-N-S-I 6:14 objective 10:19 obtain 4:2 Odundi 6:13 Odunsi 5:4 6:10,12 6:14,15 7:17		R	
			reason 16:4 receive 15:18,22 received 15:5 receptionist 3:2 record 3:17 12:5 16:3 recorded 3:4 records 8:10 10:1 Reeves 1:12 refrain 3:5 regards 4:8	

Silverstein 1:17 2:20 sir 8:13,14,18 six 8:1,2,3,4,5 12:3 somebody 10:4 soon 11:4 sorry 2:4 8:2,4 9:17 speak 6:17 specifically 16:9 spelling 3:16 standing 8:16 9:5 11:14 12:17,19 13:2 start 2:8 starting 2:4 state 9:3 11:19 12:4 stated 10:4 states 10:16 status 1:7 13:22 17:5 Street 1:13 subject 15:21 16:7 submit 14:2 16:5 submitted 12:10 13:6 15:15 submitting 15:13 substance 16:18 suggest 14:1 Suite 1:13 sure 5:6 12:16 surprises 16:15	today 2:12 11:22 today's 3:1 13:8 traffic 2:6 trouble 2:6 Truong 4:13,13 turned 3:10 type 12:8	2 2000 1:12 20009 1:13 2014 1:10 2:15 5:12 14:19 2142 1:6 4:7		
	U understand 9:8,10	3 3 5:13,13 10:3,3		
	V	4 400S 1:13 405(b) 3:21 442-6492 16:21		
	W Wait 5:15 want 5:9 6:17 9:2,3 10:15,16 11:2,2 12:4,14,16 14:1,6 14:19 wanted 5:6 8:20 Washington 1:13 weeds 12:15 weren't 7:3 whichever 15:19 witnesses 16:6 writing 12:14 14:2 17:1	5 50 6:7		
	X	6		
	Y	7		
	Yolando 7:17	8		
	Z	9 94074 1:7 4:8		
T t/a 1:6 table 3:13,15 6:22 take 2:9 3:13 8:21 11:1 14:1 17:2 tell 7:10 Tesha 15:6 testify 16:10 testifying 16:12 Thank 8:19 14:13 17:3,4 thing 11:5 think 12:13,14 three 2:21 throw 16:16	0 1 1 1:10 2:15 1:30 14:19 10:04 2:2 10:15 17:7 131 5:13 14 14:19 14-PRO-00021 1:8 4:6 14th 1:12			